Homestead: Exemption Under Federal Law.—Section 2296 of the Revised Statutes of the United States is as follows: "No lands acquired under the provisions of this chapter (the Federal homestead laws) shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor."

In Cooper v. Miller [1] the court makes the statement: "It is well settled that this Federal exemption does not protect one who has parted with title to the land and subsequently acquired that title," citing an earlier California case. [2]

Many cases recognize this exemption. [3] It has been held constitutional and not in violation of the sovereignty of the State.[4] State legislation cannot interfere with it.[5].

It has been repeatedly held that this exemption of Federal homestead lands for debts contracted prior to the issuance of the patent continues even though the lands are conveyed to another.[6] Even a conveyance without consideration does not render such lands liable;[7] and the exemption attaches even though the land ceases to be occupied as a homestead.[8] These cases follow logically the express declaration of the statute. The exemption is thus in its nature not a privilege personal to the patentee, but is one attaching to the land and enuring to the benefit of the grantee.[9]

In accordance with this well settled theory, where a patentee of such a Federal homestead conveyed the same to his wife, who reconveyed to him both acting in the honest belief that such conveyance would render the homestead more secure to the wife and children, it was held that the conveyance did not operate to extinguish the exemption.[10] Another well considered case laid down the doctrine that the fact that the patentee of such lands conveys them and afterwards acquires title, does not render the lands subject to the debts of the patentee created before the patent was issued.[11]

The earlier case of DeLany v. Knapp upon which the statement in

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[1] (Feb. 27, 1913), 45 Cal. Dec. 298.

[2] De Lany v. Knapp (1896), 111 Cal. 165, 43 Pac. 598.

[3] Lewton v. Hower, (1882), 18 Fla. 872; Miller v. Little (1874), 47 Cal. 348; Bernard v. Boller, (1894), 105 Cal. 214, 38 Pac. 728.

[4] Seymour v. Saunders (1874), 3 Dill (U. S.) 437, 21 Fed. Cases 12690.

[5] Smith v. Schmitz, (1880), 10 Neb. 600, 7 N. W. 329; Jackett v. Bower (1901), 62 Neb. 232, 86 N. W. 1075; Faull v. Cooke, (1890), 19 Ore. 455, 26 Pac. 662;Russell v. Lowth, (1874), 21 Minn., 167, 18 Am. Rep. 389.

[6] Russell v. Lowth, (1874), 21 Minn. 167, 18 Am. Rep. 389.

[7] Smith v. Steele (1882), 13 Neb. 1, 12 N. W. 830.

[8] Jean v. Dee, (1893), 5 Wash. 580, 32 Pac. 460.

[9] Dickerson v. Cuthburth, (1894) 56 Mo. App. 647. In Brandhoefer v. Bain (1895), 45 Neb. 781, 64 N. W. 213, 215, the court of Nebraska describes the exemption as "a reservation or condition in the grant itself."

[10] Bouscher v. Smith, (1887), 73 Iowa 610, 35 N. W. 681.

[11] Brandhoefer v. Bain (1895), 45 Neb. 781, 64 N. W. 213.

Cooper v. Miller rests seems in fact, to have been a case of fraud. The Louisiana authority cited in that case to sustain the present dictum was, in fact, a case not dealing with the Federal exemption.[12] There is apparently, therefore, an absence of actual precedent to sustain the language of the Court in the case under comment. The statement, therefore, that the Federal exemption is lost by a conveyance and reconveyance need not be taken as a final decision on this question of law.

M. O.

Injunction—Interference with Business or Occupation.—In Empire Steam Laundry Co. v. Lozier,[1] the defendant, an employee of the laundry company, contracted, as a part of the consideration of his employment, not to solicit his employer's customers after the termination of his employment. The court enjoined him "from in any manner soliciting or receiving laundry work from any of the persons who were on February 10, 1910, customers of the plaintiff. . . . ." It would seem that this injunction is too broad. Under the contract, the defendant should not have been enjoined from "receiving" the patronage of these customers who might continue to deal with him of their own accord and without solicitation, but at most only against "soliciting."

It is to be noticed, however, that the court did not grant the injunction on the basis of the contract but upon general principles of equity. It held that the employee's acquaintance with plaintiff's customers came within the rule that equity will enjoin against the disclosure of trade secrets and confidential communications. For this extension of the rule the court relied upon two cases in the Supreme Court of New York,[2] and quoting from one of them,[3] said: "The names of the customers of a business concern whose trade and patronage has been secured by years of business effort and advertising, and the expenditure of time and money, constituting a part of the good will of a business which enterprise and foresight have built up, should be deemed just as sacred and entitled to the same protection as a secret of compounding some article of manufacture and commerce."

In each of the New York cases relied upon for the extension of the rule, there were express contracts governing the rights of the parties and the statements in those cases are accordingly to be regarded merely as dicta.

In a later New York case upon the subject, no express contract was involved, and the Supreme Court, following these earlier dicta granted an injunction against the employee. On appeal to the Appel-

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[12] Hebert v. Mayer, (1895), 42 La. Ann. 839, 8 So. 590.

[1] 45 Cal. Dec. 345, Supreme Court Mch. 7, 1913.

[2] Hackett v. Reynolds Co., (1900) 30 Misc. Rep. 733, 62 N. Y. S. 1076; Witkop &Holmes Co. v. Boyce, (1908) 112 N. Y .S. 874.

[3] Witkop & Holmes Co. v. Boyce, (1908) 112 N. Y. S. 874.